

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOHN J. DONLEY,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:16CV00638 SNLJ
)	
MICHAEL BOWERSOX,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before me on the petition for writ of habeas corpus filed by Petitioner John J. Donley. I referred this matter to United States Magistrate Judge Shirley Padmore Mensah for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On August 12, 2019, Judge Mensah filed her recommendation that Donley's habeas petition should be dismissed without prejudice.

After careful consideration, I will adopt and sustain the thorough reasoning of Judge Mensah and deny Donley's habeas petition for the reasons stated in the Report and Recommendation dated August 12, 2019. I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. See *Tiedeman v. Benson*, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a Court could resolve the issues differently, or the issues deserve further proceedings. *Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997) (citing *Flieger v. Delo*, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because

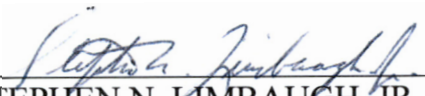
Johnson has not made such a showing in this case, I will not issue a certificate of appealability.

Accordingly,

IT IS HEREBY ORDERED that Judge Mensah's Report and Recommendation, #10, filed August 12, 2019 is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that Petitioner's Petition for Writ of Habeas Corpus, #1, is **DISMISSED without prejudice**.

Dated this 30th day of August, 2019.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE